



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

AARON B. KEYS, §
§
Plaintiff, §
§
vs. § CIVIL ACTION NO. 6:16-cv-3167-MGL-MGB
§
LANCE CRICK, and HENRY M. §
HERLONG, JR., §
§
Defendants. §
§
§

ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND SUMMARILY DISMISSING THE COMPLAINT WITH PREJUDICE
AS TO THE CLAIMS AGAINST DEFENDANTS IN THEIR INDIVIDUAL CAPACITIES
AND WITHOUT PREJUDICE AS TO ANY CLAIMS AGAINST DEFENDANTS
IN THEIR OFFICIAL CAPACITIES

This action arises under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), for alleged violations of constitutional rights by a United States Assistant Attorney and a United States District Judge. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the Complaint be summarily dismissed with prejudice as to the claims against Defendants in their individual capacities and without prejudice as to any claims against Defendants in their official capacities. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 14, 2016, but Plaintiff failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that the Complaint is **DISMISSED WITH PREJUDICE** and without issuance and service of process as to the claims against Defendants in their individual capacities and **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process as to any claims against Defendants in their official capacities.

IT IS SO ORDERED.

Signed this 29th day of November 2016 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.